THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4067 of 2007

05.3.2007

Between:

Chekkapalli Devaratnam, S/o.Venkayya
And others

… Petitioners

AND

The Mandal Revenue Officer, Biccavolu Mandal, East Godavari District
And another

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4067 of 2007

ORDER:

The ten petitioners allege that they were allotted house sites in survey No.230/2B in 1982 and they are in peaceful possession of the land. According to them, the first respondent allegedly came to their sites in January 2007 and without serving any notice and without any reason tried to dispossess them. Therefore, the present writ petition is filed.

At the stage of admission itself, learned Assistant Government Pleader for Revenue (Assignment) obtained instructions from the first respondent and submits that in 1980, 180 landless poor persons were assigned house site pattas to the extent of Acs.0.03 each, that they failed to construct houses even after lapse of 26 years and that as they contravened conditions of assignment, the Mandal Revenue Officer (MRO), Biccavolu Mandal – the first respondent herein; by tom-tom informed that the assignment would be cancelled. He further submits that the land has already been assigned to 256 persons. But the learned Assistant Government Pleader did not deny that the MRO did not pass orders of cancellation of assignment and also he is not able to deny that the petitioners' possession is in tact.

Having regard to the submissions made by the learned Counsel for the petitioners and learned Assistant Government Pleader, this Court is of considered opinion that if any of the assignees, to whom house site is allotted/assigned, fails to construct house within a period of six months/ one year, as the case may be, it is always open to the Assigning Authority to take possession of the land after following due process of law. Before cancellation of the assignment – needless to mention – the Assigning Authority has to issue notice of cancellation, obtain explanation by giving reasonable time and after considering explanation pass appropriate order. In this case, this procedure has not been followed and therefore this Court observes that unless and until the first respondent follows the procedure as

indicated herein above, the petitioners – if they are in possession – cannot be disturbed from their land.

The writ petition, with the above observations, is accordingly disposed of. No costs.

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(**V.V.S.RAO,J**)

March 05, 2007

NOTE:

Issue order copy by

08.3.2007.

(By order)

YS